



# California Fair Political Practices Commission

December 26, 1989

Jo Purcell  
City Clerk  
30940 Hawthorne Blvd.  
Rancho Palos Verdes, CA 92074-5391

RE: Your Request for Informal Assistance  
Our File No. I-89-614

Dear Ms. Purcell:

You have requested assistance regarding the campaign provisions of the Political Reform Act.<sup>1</sup>

Because you are not seeking advice on behalf of a person who has duties under the Act, we consider your letter to be a request for informal assistance pursuant to Regulation 18329(c).<sup>2</sup> We hope the following general guidance is helpful.

## FACTS

An organization opposes a particular zoning proposal under consideration by the city council. The organization mailed a letter, accompanied by response postcards, to residents in the city. The letter asked the recipient to oppose one particular zoning proposal and to join the organization.

The organization's letter is signed by nine individuals. Eight of the individuals are identified in a footnote as members of the organization. The words "city council candidate" are printed directly underneath the ninth person's signature.

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<sup>1</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

<sup>2</sup> Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c)(3).)

### QUESTION

Does the mailing constitute a contribution to the candidate and result in the sender having filing obligations under the Political Reform Act?

### CONCLUSION

Inclusion of the candidate's signature along with identification of her as a candidate on a mailing sent to city residents constitutes a contribution to the candidate.

The organization will incur filing obligations if it qualifies as a "committee" under the Act. If the organization making the contribution qualifies as a recipient committee, it may be a "controlled committee" depending on the involvement of the candidate.

### ANALYSIS

Section 82015 defines "contribution" as follows:

"Contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received unless it is clear from the surrounding circumstances that it is not made for political purposes. An expenditure made at the behest of a candidate, committee or elected officer is a contribution to the candidate, committee or elected officer unless full and adequate consideration is received for making the expenditure.

An expenditure is made at the behest of a candidate if it is made "under the control or at the direction of, in cooperation, consultation, coordination, or concert with, or at the request or suggestion of" the candidate. (Regulation 18215(b).) A letter sent to voters which is signed by a candidate or elected officer is made at the behest of the candidate or elected officer.

An organization which makes contributions may qualify as a "recipient committee" (Section 82013(a)) or a "major donor committee" (Section 82013(c)) depending upon the organization's history and activities.

Section 82013 defines "committee" as:

Any person or combination of persons who directly or indirectly does any of the following:

(a) Receives contributions totaling one thousand dollars (\$1,000) or more in a calendar year;

(b) Makes independent expenditures totaling one thousand dollars (\$1,000) or more in a calendar year; or

(c) Makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to or at the behest of candidates or committees.

An organization which receives \$1,000 in a calendar year for the purpose of making contributions to or expenditures to support or oppose candidates or measures qualifies as a "recipient committee" under Section 82013(a) of the Act. An organization which receives funds in the form of donations or membership dues but which does not receive those funds primarily for the purpose of making contributions to or expenditures on behalf of California state or local candidates, ballot measures or committees can also incur campaign filing obligations under Section 82013(a) in certain circumstances. Regulation 18215(c) states that such an organization is considered to be receiving "contributions" under the Act if the payments it receives are "earmarked" for the making of contributions or expenditures.

...A payment is "earmarked" when, at the time of making the payment, the donor knows or has reason to know that the payment or funds with which the payment will be commingled will be used to make contributions...or expenditures.... Factors relevant to a determination that the donor has reason to know that all or part of the payment will be used to make expenditures and contributions include but are not limited to the established practice of the person or organization with respect to expenditures and contributions and any representations made when the payment is solicited.

Regulation 18215(c).

When such an organization makes contributions or expenditures as defined in the Act, it establishes a "history" of making contributions or expenditures and, therefore, its donors or members have "reason to know" that future donations or dues may be used for such purposes. Once a history has been established, the organization is considered to have "received" contributions when it uses the donors' or members' funds to make contributions or expenditures. The organizations would then qualify as a "recipient committee" when it spends \$1,000 in a calendar year. For practical purposes, this method of determining "committee" status is applied on a calendar year basis.

For example, if the organization made contributions to or expenditures on behalf of California state or local candidates or measures during 1988, it established a "history" of making contributions or expenditures. If, during any subsequent calendar year, the organization uses \$1,000 to make contributions or expenditures, the \$1,000 used will constitute "contributions" received and the organization will qualify as a recipient committee.

In addition, a recipient committee may also qualify as a "controlled committee" as defined in Section 82016:

"Controlled committee" means a committee which is controlled directly or indirectly by a candidate or state measure proponent or which acts jointly with a candidate, controlled committee or state measure proponent in connection with the making of expenditures. A candidate or state measure proponent controls a committee if he, his agent or any other committee he controls has a significant influence on the actions or decisions of the committee.

(Emphasis added.)

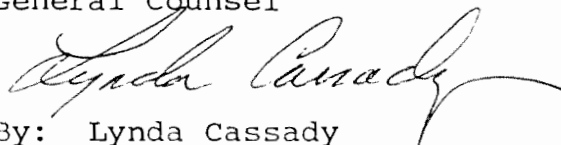
The Commission has interpreted the definition of "controlled committee" very broadly to include any significant participation in the actions of a committee by a candidate, his or her agent, or representatives of any other committee he or she controls. (Forcier Advice Letter, No. I-89-058, copy enclosed.) However, the provisions of Proposition 73 allow candidates to have only one controlled committee for each election and prohibit a candidate from controlling a committee which makes contributions to other candidates and officeholders. (Sections 85201 and 85304.)

If the organization which sent the mailing containing the candidate's signature does not qualify as a "recipient committee" under Section 82013(a), it may incur campaign disclosure obligations as an "independent expenditure committee" pursuant to Section 82013(b) or a "major donor committee" pursuant to Section 82013(c). (Independent expenditure and major donor committees do not receive contributions.) That is, if the organization has no previous history of making contributions or expenditures, but makes contributions totaling \$10,000 in a calendar year to or at the behest of candidates or committees, or makes independent expenditures to support or oppose candidates or measures totaling \$1,000 in a calendar year, it must file campaign disclosure statements.

The qualification thresholds and filing obligations of all three types of committees are discussed in the FPPC "Information Manual on Campaign Disclosure Provisions of the Political Reform Act," which you already have. However, please do not hesitate to contact me at (916) 322-5662 if you have any questions.

Sincerely,

Kathryn E. Donovan  
General Counsel



By: Lynda Cassady  
Political Reform Consultant

Enclosures



# RANCHO PALOS VERDES

Mayor JACKI BACHARACH

Mayor Pro Tem JOHN C. McTAGGART

Councilman DOUGLAS M. HINCHLIFFE

Councilman MELVIN W. HUGHES

Councilman ROBERT E. RYAN

City Manager DENNIS McDUFFIE

October 20, 1989

Fair Political Practices Commission  
428 "J" Street  
Sacramento, CA 95814

Re: Enclosed Mailer from RPV Residential  
Open Space Committee

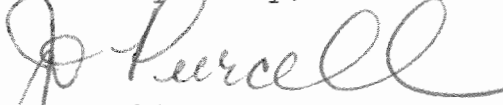
Oct 23 2 08 PM '89  
FPPC

At their meeting held on October 17, the City Council directed me to find out if the RPV Residential and Open Space Committee has any filing requirements in light of the fact that one of the signatories on their letter identifies herself as "City Council Candidate."

Since your office was unable to advise me over the phone whether or not this Committee had any such filing obligations, I am enclosing a sample of the mailer which they sent to all households on the Palos Verdes Peninsula and request that you examine the material and provide the City with your written opinion.

Please call this office if you have any questions regarding this matter.

Yours very truly,

  
Jo Purcell  
City Clerk

JP  
encl.

cc: City Council  
City Attorney  
City Manager

# **RPV**

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## ***Residential and Open Space Committee***

October 6, 1989

Dear Friend and Neighbor:

Did you hear the one about the developer who rides into town planning to build a project that ignores the General Plan, has no relationship to current zoning, and violates the spirit and intent of the Local Coastal Plan? Well, let us introduce you to the world of the Palos Verdes Land Holding Company (a.k.a. the Barry Hon Ritz Carlton Hotel proposal along Palos Verdes Drive South).

Mr. Hon's proposal includes, among other things:

- a 450 room high rise tourist hotel
- an 18 hole golf course
- a helipad (helicopter landing pad)
- a commercial shopping center
- 128 homes on **only** 91 acres
- a 1,000 car parking lot, and
- 6,868 additional car trips per day added to local streets

Hon's hotel will be the ***second new massive hotel on R.P.V.'s coast*** (the city has already tentatively indicated its approval for the first hotel on the old Marineland site). Is this what the citizens of Rancho Palos Verdes want for the future of our City? The R.P.V. Residential and Open Space Committee believes ***not***, and we think the vast majority of R.P.V. residents share our belief.

Our Committee has much in common with many of the other fine community-based organizations on the peninsula -- preserving open space and scenic vistas; protecting the coastline; and, enhancing our overall quality of life. We go further by stating openly and directly that we are committed to preserving the ***residential quality*** and ***character*** of our neighborhoods.

It is for the citizens of R.P.V. to choose the kind of future development we want in our city, and for the Palos Verdes Drive South area (the area Barry Hon wants) we've already made our choice. We want single family **RESIDENTIAL** (RS-1: single family homes). We made this choice only after countless hours of public debate, community input and public hearings, and it was memorialized in:

1975 - R.P.V. Adopts General Plan  
1975 - R.P.V. Adopts Zoning Ordinance  
1978 - R.P.V. Adopts Coastal Specific Plan  
1982 - Coastal Commission Certifies Local  
Coastal Plan for Sub-Regions 7 & 8

We must fight to protect our **choice**. Joining us in the fight is the largest property owner in the area - the Zuckerman Family. The Zuckermans have lived here on the peninsula since 1971, and they have owned 141 acres in the Palos Verdes Drive South area for over 25 years. While they have an economic interest in the area (they would like to develop their property with single family homes), as members of our community, they have shown sensitivity to the critical need of balancing private landowner interests with the concerns and desires of local residents.

The Zuckermans propose to develop their property, after further community input, as a residential project consistent with the City's existing Coastal Specific Plan. Their proposal provides such community amenities as: continuous bluff-top walking trails; biking paths; public parks including the preservation of Shoreline Park in its natural state (and many scenic park stops); a community nature pavilion; and preservation of native vegetation.

The Residential and Open Space Committee does not support any specific project. We have simply presented the alternative Zuckerman proposal to demonstrate that, given some thought and sensitivity, a **consistent** (residential) project can be presented for the Palos Verdes Drive South area that upholds **the choice** we've already made through our city planning process.

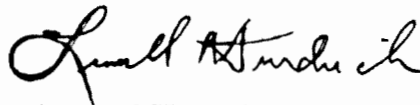
If we are to succeed in protecting our community we need to say "NO" to the Hon project; we need to speak out; we need to inform our friends and neighbors about what's happening; and we need to let our elected officials know how we feel.

Please fill out and return the enclosed prepaid postcards. Your voice and support **will make a difference**.

Sincerely,



\*Aaron Landon

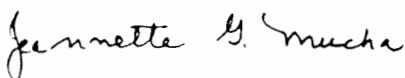


\*Linvill Hendrich



Kay Bara

City Council Candidate



\*Jeannette G. Mucha



\*Warren Sweetnam



\*Lyle W. Quatrochi

MR. MICKEY MASDEO

\*Mickey Masdeo

Mrs. Gerald E. Rhodes

\*Mrs. Gerald E. Rhodes



\*Stan Mucha

P.S. We've enclosed a copy of a newspaper ad we intend to run in the Palos Verdes Peninsula News. As you can see, the Hon proposal **cannot** be built without wholesale changes to our City's General Plan and Zoning Ordinance, and the Local Coastal Plan.

\*The above designated signators are members of the Rancho Palos Verdes Council of Homeowners Associations and have signed as individual Rancho Palos Verdes residents, not necessarily as representatives for their specific homeowners associations.



# California Fair Political Practices Commission

October 25, 1989

Jo Purcell  
City Clerk  
30940 Hawthorne Boulevard  
Rancho Palos Verdes, CA 90274-5391

Re: Letter No. 89-614

Dear Ms. Purcell:

Your letter requesting advice under the Political Reform Act was received on October 23, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5662.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to the information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

*Jeanne Pritchard*  
by *plh*  
Jeanne Pritchard  
Chief Technical Assistance  
and Analysis Division

JP:plh